



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

OCT 27 2006

Bob Kjellander, Treasurer
Republican National Committee
310 First Street, S.E.
Washington, DC 20003

RE: MUR 5850

Dear Mr. Kjellander:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission ("the Commission") became aware of information suggesting that the Republican National Committee ("the Committee") and you, in your official capacity as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). On October 18, 2006, the Commission found reason to believe that the Committee and you, in your official capacity as treasurer, violated 2 U.S.C. §§ 434(b)(4)(H)(iii) and 434(g)(1)(A), provisions of the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519. In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to you as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that you violated the law.

If you are interested in engaging in pre-probable cause conciliation, please contact Julie McConnell, the attorney assigned to this matter, at (202) 694-1650 or (800) 424-9530, within seven days of receipt of this letter. During conciliation, you may submit any factual or legal

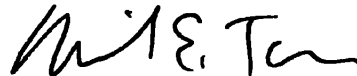
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materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. *See* 2 U.S.C. § 437(g)(a), 11 C.F.R. Part 111 (Subpart A). Similarly, if you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed Designation of Counsel form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

We look forward to your response.

Sincerely,



Michael E. Toner
Chairman

Enclosures

Factual and Legal Analysis

Procedures

Designation of Counsel Form

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**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Republican National Committee and Bob
Kjellander, in his official capacity as Treasurer

MUR: 5850

I. INTRODUCTION

This matter originated with information ascertained by the Commission in the ordinary course of its supervisory responsibilities. For the reasons set forth below, there is reason to believe that the Republican National Committee and Bob Kjellander, in his official capacity as Treasurer ("the Committee"), violated 2 U.S.C. § 434(g)(1)(A) and 11 C.F.R. § 104.4(c) by failing to file seven 24 Hour Notices relating to thirteen independent expenditures totaling \$2,088,697.91, and 2 U.S.C. § 434(b)(4)(H)(iii) and 11 C.F.R. § 104.4(a) by failing to report independent expenditures totaling \$5,414,287.39 on Schedule E of its 2004 Post-General Report.

II. FACTUAL AND LEGAL ANALYSIS

A. Failure to File 24 Hour Notices

Under 2 U.S.C. § 434(g)(1)(A), a political committee that makes an independent expenditure "aggregating \$1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours." *See also* 11 C.F.R. § 104.4(c). For the 2004 general election, the 24 Hour Notice period for general election independent expenditures ran from October 14 to October 31, 2004. According to the Committee's disclosure reports, the Committee made eight independent expenditures for media costs to Dirt Road Productions, which totaled \$173,030.34, between these dates. *See* Attachment A. The Committee disclosed these expenditures on Schedule E of its 2004 Post-General Report, but did not file 24 Hour Notices.

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1 In response to a Request for Additional Information ("RFAI") noting the Committee's
2 apparent failure to file the required 24 Hour Notices, the Committee provided no explanation for
3 the apparent failure to file 24 Hour Notices for eight independent expenditures made between
4 October 15 and November 8, 2004, but merely stated that it "strictly adhered to the rules regarding
5 disclosure of independent expenditures and implemented an internal process for the administration
6 of such disclosure to assure that all notices were properly and timely filed." As a result, there is
7 reason to believe that the Committee violated 2 U.S.C. § 434(g)(1)(A) and 11 C.F.R. § 104.4(c) by
8 failing to file five 24 Hour Notices relating to eight independent expenditures totaling \$173,030.34.

9 B. Failure to Reconcile Discrepancies

10 The Committee also failed to reconcile \$3,498,619.82 in discrepancies between the
11 independent expenditures reported on its 24 Hour Notices and the amounts disclosed on Schedule E
12 of its 2004 Post-General Report, which covered the period from October 14 to November 22, 2004.
13 As set forth in Attachment A, the Committee's 24 Hour Notices disclosed independent
14 expenditures to Arena Communications and Crossroads Media LLC totaling \$3,996,249.21 and
15 \$12,450,000.00, respectively, while its Schedule E included independent expenditures to these two
16 vendors totaling \$3,881,961.82 and \$9,065,667.57, respectively.

17 The Committee apparently failed to report \$114,287.39 in payments to Arena
18 Communications and \$5,300,000 in payments to Crossroads Media LLC, which it disclosed in its
19 24 Hour Notices, on its Schedule E. In addition, the Committee made payments to Crossroads
20 Media on October 21, 27 and 29, 2004, which it reported only on its Schedule E, and thus appears
21 to have failed to file three 24 Hour Notices relating to five independent expenditures totaling
22 \$1,915,667.57. Because the reporting errors appear to have gone both ways, a total discrepancy of
23 \$3,498,619.82 exists between the 24 Hour Notices and Schedule E.

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1 In response to a RFAI, the Committee did not provide a detailed explanation for these
2 discrepancies, stating only that the differences may have been caused by firewalls between it and
3 the third-party independent expenditure consultant used to avoid improper transfer of information,
4 as well as different triggers for 24 Hour Notice and Schedule E reporting (*i.e.*, date of public
5 dissemination versus date of expenditure). The Committee did not, however, identify specific
6 expenditures that were paid for between October 14 and October 31, 2004, but disseminated
7 outside of the 24 Hour Notice period, nor did it explain its apparent failure to report certain
8 transactions on its Schedule E.

9 As a result, there is reason to believe that the Committee violated 2 U.S.C.
10 § 434(b)(4)(H)(iii) and 11 C.F.R. § 104.4(a) by failing to disclose independent expenditures
11 totaling \$5,414,287.39 on Schedule E of its 2004 Post-General Report, and 2 U.S.C. § 434(g)(1)(A)
12 and 11 C.F.R. § 104.4(c) by failing to file three 24 Hour Notices relating to five independent
13 expenditures totaling \$1,915,667.57.¹

14 **III. CONCLUSION**

15 Accordingly, the Commission finds reason to believe that the Republican National
16 Committee and Bob Kjellander, in his official capacity as Treasurer, violated 2 U.S.C.
17 § 434(g)(1)(A) and 11 C.F.R. § 104.4(c) by failing to file seven 24 Hour Notices relating to thirteen
18 independent expenditures totaling \$2,088,697.91, and 2 U.S.C. § 434(b)(4)(H)(iii) and 11 C.F.R.
19 § 104.4(a) by failing to report independent expenditures totaling \$5,414,287.39 on Schedule E of its
20 2004 Post-General Report.

¹ Because the Committee made two independent expenditures to Crossroads Media on October 29, 2004, the same date as an independent expenditure to Dirt Road Productions discussed in Section II.A, a total of seven 24 Hour Notices is missing. *See* Summary of 24 Hour Notices, Attachment A.

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Overview of Reporting Discrepancies

Failure to File 24 Hour Notices

Payee	Expense	Date	24 Hour Notice	Date	Schedule E
Dirt Road Productions	Media cost	---	---	11/08/04	\$8,332.50
Dirt Road Productions	Media cost	---	---	10/29/04	\$26,779.80
Dirt Road Productions	Media cost	---	---	10/28/04	\$1,575.00
Dirt Road Productions	Media cost	---	---	10/28/04	\$1,078.00
Dirt Road Productions	Media cost	---	---	10/25/04	\$57,265.90
Dirt Road Productions	Media cost	---	---	10/25/04	\$2,788.50
Dirt Road Productions	Media cost	---	---	10/25/04	\$9,520.50
Dirt Road Productions	Media cost	---	---	10/15/04	\$65,690.14
TOTAL					\$173,030.34

Failure to Reconcile 24 Hour Notices and 2004 Post-General Schedule E

Payee	Expense	Date	24 Hour Notice	Date	Schedule E	Discrepancy
Arena Communications	Postage	10/22/04	\$904,890.19	10/21/04	\$847,350.90	\$57,539.29
Arena Communications	Postage	10/21/04	\$575,473.62	10/21/04	\$536,936.84	\$38,536.78
Arena Communications	Mailing costs	10/20/04	\$2,515,885.40	10/15/04	\$2,497,674.08	\$18,211.32
TOTAL			\$3,996,249.21		\$3,881,961.82	\$114,287.39

Payee	Expense	Date	24 Hour Notice	Date	Schedule E	Discrepancy
Crossroads Media LLC	Media cost	10/27/04	\$350,000.00	10/21/04	\$350,000.00	
Crossroads Media LLC	Media cost	---	---	10/27/04	\$250,000.00	
Crossroads Media LLC	Media cost	10/16/04	\$5,000,000.00	10/15/04	\$5,000,000.00	
Crossroads Media LLC	Media cost	---	---	10/29/04	\$400,000.00	
Crossroads Media LLC	Media cost	10/29/04	\$300,000.00	10/29/04	\$300,000.00	
Crossroads Media LLC	Media cost	10/22/04	\$1,500,000.00	10/20/04	\$1,500,000.00	
Crossroads Media LLC	Media cost	---	---	10/29/04	\$175,000.00	
Crossroads Media LLC	Media cost	---	---	10/21/04	\$90,667.57	
Crossroads Media LLC	Media cost	---	---	10/27/04	\$1,000,000.00	
Crossroads Media LLC	Media cost	10/19/04	\$5,000,000.00	---	---	
Crossroads Media LLC	Media cost	10/31/04	\$300,000.00	---	---	
TOTAL			\$12,450,000.00		\$9,065,667.57	\$3,384,332.43

Total discrepancy = \$114,287.39 + \$3,384,332.43 = \$3,498,619.82

Total independent expenditures not reported in 24 Hour Notices = \$2,088,697.91

Total independent expenditures not disclosed on Schedule E = \$5,414,287.39

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Summary of 24 Hour Notices

Summary of 24 Hour Notices

Payee	Expense	Date	24 Hour Notice	Date	Schedule E	Total
(1) Dirt Road Productions	Media cost	---	---	11/08/04	\$8,332.50	\$8,332.50
(2) Dirt Road Productions	Media cost	---	---	10/29/04	\$26,779.80	\$601,779.80
Crossroads Media LLC	Media cost	---	---	10/29/04	\$400,000.00	
Crossroads Media LLC	Media cost	---	---	10/29/04	\$175,000.00	
(3) Dirt Road Productions	Media cost	---	---	10/28/04	\$1,575.00	\$2,653.00
Dirt Road Productions	Media cost	---	---	10/28/04	\$1,078.00	
(4) Crossroads Media LLC	Media cost	---	---	10/27/04	\$250,000.00	\$1,250,000.00
Crossroads Media LLC	Media cost	---	---	10/27/04	\$1,000,000.00	
(5) Dirt Road Productions	Media cost	---	---	10/25/04	\$57,265.90	\$69,574.90
Dirt Road Productions	Media cost	---	---	10/25/04	\$2,788.50	
Dirt Road Productions	Media cost	---	---	10/25/04	\$9,520.50	
(6) Dirt Road Productions	Media cost	---	---	10/15/04	\$65,690.14	\$90,667.57
(7) Crossroads Media LLC	Media cost	---	---	10/21/04	\$90,667.57	\$65,690.14
TOTAL					\$2,088,697.91	\$2,088,697.91

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